

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MALCOLM HANSON,

Plaintiff,

v.

BOARD OF PAROLE HEARINGS, et al.,

Defendants.

Case No. 1:23-cv-00599-JLT-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION

(Doc. 9)

The magistrate judge reviewed the allegations of Plaintiff's complaint pursuant to 28 U.S.C. § 1915A, and found that Plaintiff was "challenging the denial of parole," and did not raise claims concerning the conditions of his confinement. (Doc. 9 at 2-3.) Therefore, the magistrate judge determined "the appropriate avenue to obtain relief is not a § 1983 action." (*Id.* at 3.) The magistrate judge recommended the claims be dismissed without prejudice to re-filing as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (*Id.* at 4.)

The Court served the Findings and Recommendations on Plaintiff on February 27, 2023, and it contained a notice that any objections must be filed within fourteen days of the date of service. (Doc. 9 at 4.) Plaintiff filed timely objections on May 5, 2023, reiterating his belief that the defendants have acted unlawfully because he "is suitable for parole." (Doc. 10 at 2.)

According to 28 U.S.C. § 636(b)(1)(C), the Court performed a de novo review of the case. Having carefully reviewed the entire matter, the Court concludes the Findings and

1 Recommendations are supported by the record and by proper analysis. Because Plaintiff does not
2 challenge the conditions of his confinement but rather the duration, his claims are not proper under
3 Section 1983. *See Hill v. McDonough*, 547 U.S. 573, 579 (2006) (“Challenges to the lawfulness of
4 confinement or to particulars affecting its duration are the province of habeas corpus”) (citation
5 omitted). Thus, the Court **ORDERS**:

- 6 1. The Findings and Recommendations filed on April 25, 2023 (Doc. 9) are
7 **ADOPTED** in full.
- 8 2. The Complaint is **DISMISSED** without prejudice.
- 9 3. The Clerk of Court is directed to close this case.

10
11 IT IS SO ORDERED.

12 Dated: **May 19, 2023**


UNITED STATES DISTRICT JUDGE